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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/713,163	11/14/2000	Allen D. Polowinczak	1247 P 179	3393

7590 05/30/2002

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EXAMINER

WALSH, JOHN B

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 05/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

09/713,163

Applicant(s)

POLOWINCZAK ET AL

Examiner

John B. Walsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 39 and 40 is/are allowed.
- 6) ☒ Claim(s) 1-3, 10-12, 15-19, 22-26, 33, 34 and 38 is/are rejected.
- 7) ☒ Claim(s) 4-9, 13, 14, 20, 21, 27-32 and 35-37 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Objections*

1. Claim 20 is objected to because of the following informalities: It is unclear if claim 20 should be dependent upon claim 21. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 10-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites "the cover has...accommodating the cover." It is unclear how the cover can accommodate itself.

Claim 11 recites "the cover is...corresponding in size to the cover." It is unclear how the cover can be referenced from itself.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 10-12 (as best understood), 15-19, 22-26, 33, 34 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,669,639 to Lawrence.

Lawrence '639 discloses a tilt latch comprising a housing (31) having an outward end opening (figure 7; left side of 31) and a cover (bottom side of 31); a latch bolt (20) having a nose

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(figure 7; left end of 20); an actuator/elongated body (30) connected to the latch bolt (figure 3) and sized to be positioned over the entire cover (figure 14; positioned over the entire cover, just as much as shown in applicants figure 9).

As concerns claims 2 and 23, means for biasing the latch (27).

As concerns claims 3, 26 and 34, the cover has opposed longitudinal peripheral edges (32a) and the actuator has opposed depending longitudinal flanges (figure 14), the flanges being positioned over the peripheral edges (figure 14).

As best understood concerning claim 10, the cover has an underside surface (top surface of bottom side of 31) having a recessed portion (recess defined by 32a).

As best understood concerning claim 11, the cover is rectangular (figure 9), the recessed portion being rectangular (figure 9).

As best understood concerning claim 12, the cover has a rear transverse edge that engages a rear transverse edge defined by the recessed portion (right edge of cover has engagement with the recessed portion edge).

As concerns claims 15 and 22, the actuator is made of metal (column 3, lines 48-50).

As concerns claims 16, 24 and 38, the actuator/elongated body is made of zinc (column 3, lines 48-50).

As concerns claims 17 and 22, the housing and the latch bolt are made from plastic (column 3, lines 48-50).

As concerns claim 18, the biasing means comprised a spring (figure 7; 27).

As concerns claim 19, the top rail has opposed header slots (figure 14) and the housing includes means for supporting the housing in the header slots (bottom surface of housing contacts the slot and keeps it in the slot).

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*Allowable Subject Matter*


6. Claims 39 and 40 are allowed.
7. Claim 20 would be allowable if the objection to the claim were overcome.
8. Claims 4-9, 13, 14, 21, 27-32 and 35-37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 703-305-0444. The examiner can normally be reached on Monday-Friday from 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-872-9325.

  
Anthony Knight  
Supervisory Patent Examiner  
Technology Center 3670

JW  
May 24, 2002

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